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5 IN THE UNITED STATES DISTRICT COURT

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9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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TIMOTHY MCCARTHY III,

Plaintiff,

No. C 16-06782 WHA

v.

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SCOTT GEIST, individually and in his capacity
as a Deputy Sheriff for the Contra Costa County
Sheriff's Department; and DOES 1–50, inclusive,
individually, jointly and severally,

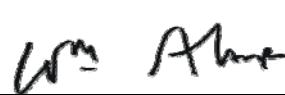
Defendants.

**ORDER DENYING MOTION
TO COMPEL DEPOSITION
TESTIMONY**

Even though discovery has closed in this action, plaintiff moves to compel deposition testimony from third-party witness Ryan Montoya (Dkt. No. 70). Deputy Montoya is a former defendant, but a prior order dismissed him in September 2017 (Dkt. No. 34). The Court has reviewed the motion and determined that no reply is necessary. There are two problems with plaintiff's motion. *First*, the witness was not subpoenaed prior to the discovery cutoff (or at all). *Second*, attempted service upon defense counsel is insufficient, as counsel is not obligated to accept service on behalf of third-parties. The Court has extended numerous opportunities to plaintiff to plead his best case, but this order will not reopen discovery. Motion **DENIED**.

IT IS SO ORDERED.

Dated: May 2, 2018.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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